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be notified and provided an opportunity to meet with the Board members or their delegates.

(f) *Delegation of authority to approve subzone designation.* The Board delegates to the Executive Secretary authority to approve applications requesting subzone designation, on the condition that such approved subzones will be subject to the activation limit for the zone in question.

(g) The Board or the Commerce Department's Assistant Secretary for Import Administration may opt to terminate review of an application with no further action if the applicant has failed to provide in a timely manner information needed for evaluation of the application. A request from an applicant for an extension of time to provide information needed for evaluation of an application shall not be unreasonably withheld. The Executive Secretary may terminate review of an application where the overall circumstances presented in the application no longer exist as a result of a material change, and shall notify the applicant in writing of the intent to terminate review and allow 30 days for a response prior to completion of any termination action. The Executive Secretary shall confirm the termination in writing (by electronic means, where appropriate) to the applicant.

§ 400.37 Procedure for notification of proposed production activity.

(a) *Submission of notification.* A notification for production authority pursuant to §§ 400.14(a) and 400.22 shall be submitted simultaneously to the Board's Executive Secretary and to CBP (as well as to the grantee of the zone, if the grantee is not the party making the submission).

(b) *Initial processing of notification.* Upon receipt of a complete notification conforming to the requirements of the notification format established by the Executive Secretary pursuant to § 400.22, the Executive Secretary shall commence processing the notification. Unless the Executive Secretary determines, based on the content of the notification, to recommend further review to the Board without inviting public comment on the notification, the Executive Secretary shall transmit

to the FEDERAL REGISTER a notice inviting public comment on the notification (with such comment subject to the standards of § 400.28(b)). The notice shall be transmitted to the FEDERAL REGISTER within 15 days of the commencement of the processing of the notification, and the comment period shall normally close 40 days after the date the notice appears. If the notification indicates that a material or component to be used in the activity is subject to an AD/CVD order or proceeding, or suspension of liquidation under AD/CVD procedures, the notice shall include that information. Evidence, factual information and written arguments submitted in response to the notice must be submitted by the deadline for comments. Any comments by CBP pertaining to the notification shall be submitted to the Executive Secretary by the end of the comment period. Within 80 days of receipt of the notification, the Executive Secretary shall submit to the Board a recommendation on whether further review of all or part of the activity subject to the notification is warranted. The Executive Secretary's recommendation shall consider comments submitted during the comment period, any guidance from specialists within government, and other relevant factors based on the Board staff's assessment of the notification, in the context of the factors set forth in § 400.27.

(c) *Determinations regarding further review.* Within 30 days of receipt of the Executive Secretary's recommendation, the Board members shall provide to the Executive Secretary their determinations on whether further review is warranted concerning all or part of the activity that is the subject of the notification. If either Board member makes a determination that further review is warranted, the activity that is subject to further review (which may constitute all or part of the notified activity) shall not be conducted without authorization pursuant to the application requirements of § 400.23 and the procedural requirements of §§ 400.31–400.34 and 400.36 (or the provisions of paragraph (d) of this section, where applicable). Within 120 days of receipt of the notification, the Executive Secretary shall notify the party that submitted

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the notification (and the zone grantee, if it did not submit the notification) that:

(1) Further review is not needed for all or part of the activity that is the subject of the notification, and that the activity in question may be conducted; or

(2) Further review is needed for all or part of the activity that is the subject of the notification, with such activity precluded absent specific authorization.

(d) *Authorization for commencement of an activity on an interim basis.* For an activity notified pursuant to § 400.14(a), the Executive Secretary may authorize the commencement of some or all of the activity on an interim basis. Such authorization shall only be made based on a showing that commencement of the activity is time-sensitive, with such showing to include comments from CBP that specifically address the projected timeframe for commencement of the activity. Interim authorization shall not apply to materials or components subject to an AD/CVD order or proceeding or suspension of liquidation under AD/CVD procedures. As warranted, a determination that further review is needed for all or some of the notified activity pursuant to § 400.37(c) may also revoke the interim authorization until the Board makes a determination after conduct of that further review.

§ 400.38 Procedure for application for minor modification of zone.

(a) The Executive Secretary shall make a determination in cases under § 400.24(c) involving minor modifications of zones that do not require Board action, such as boundary modifications, including certain relocations, and shall notify the applicant in writing of the decision within 30 days of the determination that the application or request can be processed under § 400.24(c). The applicant shall submit a copy of its application/request to CBP no later than the time of the applicant's submission of the application/request to the Executive Secretary.

(b) If not previously provided to the applicant for inclusion with the applicant's submission of the application/request to the Executive Secretary, any

CBP comments on the application/request shall be provided to the Executive Secretary within 20 days of the applicant's submission of the application/request to the Executive Secretary.

Subpart E—Operation of Zones and Administrative Requirements

§ 400.41 General operation of zones; requirements for commencement of operations.

(a) *In general.* Zones shall be operated by or under the general management of zone grantees, subject to the requirements of the FTZ Act and this part, as well as those of other federal, state and local agencies having jurisdiction over the site(s) and operation(s). Zone grantees shall ensure that the reasonable zone needs of the business community are served by their zones. CBP officials with oversight responsibilities for a port of entry represent the Board with regard to the zones adjacent to the port of entry in question and are responsible for enforcement, including physical security and access requirements, as provided in 19 CFR part 146.

(b) *Requirements for commencement of operations in a zone.* The following actions are required before operations in a zone may commence:

(1) The grantee shall submit the zone schedule to the Executive Secretary, as provided in § 400.44.

(2) Approval or concurrence from the grantee and approval from CBP, pursuant to 19 CFR part 146, are required prior to the activation of any portion of an approved zone; and

(3) Prior to activation of a zone, the operator shall obtain all necessary permits from federal, state and local authorities, and except as otherwise specified in the Act or this part, shall comply with the requirements of those authorities.

§ 400.42 Operation as public utility.

(a) *In general.* Pursuant to Section 14 of the FTZ Act (19 U.S.C. 81n), each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable. A rate or charge (fee) may be imposed on zone participants to recover costs incurred by or on behalf of the grantee for the